

### **REMARKS**

Claims 1-3, 5-12 and 14-18 are pending in the present application. In response to the Office Action mailed June 9, 2004, applicants submit the following remarks.

Applicants thank Examiner Winter for recognizing allowable subject matter in claims 4 and 16.

The Office Action has rejected claims 13-18 under 35 U.S.C. § 101 as allegedly being unpatentable because they are directed to non-statutory subject matter. Specifically, the Office Action alleges that although the invention of claim 13 produces a useful, concrete, and tangible result, it is not, as a whole within the technological arts. This follows from the allegation that all of the steps recited in claim 13, which encompasses only an abstract idea, “can be performed in the mind of the user or by the use of a pencil and paper.”

The Office Action has also rejected claim 13 along with claims 14-15 and 17-18 as being unpatentable under 35 U.S.C. § 103(a) over US Patent No. 5,903,882 issued to Asay et al. (“Asay”) in view of US Patent No. 6,209,091 issued to Sudia et al. (“Sudia”)

The Office Action also recognizes that claim 16, which is dependent upon claim 13, contains allowable subject matter and notes that it would be allowable if written as an independent claim that incorporates all of its limitations including those in its base claim and any intervening claims.

Accordingly, applicants have amended claim 13 to incorporate all of the limitations of claim 16, thus overcoming the rejections under 35 U.S.C. §§ 101 and 103(a). Therefore, amended claim 13 is allowable. Claim 16 has been cancelled without prejudice. In addition, axiomatically, claims 14-15 and 17-18 are also allowable since they ultimately depend upon amended claim 13.

As to the remaining claims, the Office Action has also rejected claims 1-3 and 5-12 under 35 U.S.C. § 103(a) over Asay in view of Sudia. However, the Office Action also recognized that claim 4, dependent upon claim 1, contains allowable subject matter and notes that it would be allowable if written as an independent claim that incorporates all of its limitations including those in its base claim and any intervening claims.

Accordingly, applicants have amended claim 1 to include all of the limitations of claim 4. Therefore, amended claim 1 is allowable. Further, axiomatically claims 2-3 and 5-12, all of which ultimately depend upon amended claim 1, are also allowable.

Applicants respectfully request entry of the amendments to the claims. In view of these amendments, all of the pending claims are allowable because all grounds for rejection of or objections to the pending claims have been overcome. No new matter is introduced by way of any of these amendments.

This response is timely because the due date for this Response is September 9, 2004. No fees are estimated for filing this response. Please charge any required fees in connection with this Response to JONES DAY Deposit Account No. 50-3013.

In light of the above, it is respectfully submitted that the present application is in condition for allowance. Favorable disposition is respectfully requested.

Date September 9, 2004

Respectfully submitted,  
*Rory J. Radding* Reg. No. 48,827

*for*

28,749

Rory J. Radding

(Reg. No.)

JONES DAY  
222 East 41<sup>st</sup> Street  
New York, New York 10017-  
(212) 790-9090